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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)	CASE NO. 2:23-cr-00111-GMN-DJA
)	
Plaintiff,)	Las Vegas, Nevada
)	June 10, 2024
vs.)	Courtroom 7D
)	
ANTHONY LEWIS HAMELIN,)	Recording method: Liberty/ECRO
)	10:05 a.m. - 10:44 a.m.
Defendant.)	IMPOSITION OF SENTENCE
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C E R T I F I E D C O P Y

TRANSCRIPT OF PROCEEDINGS

BEFORE THE HONORABLE GLORIA M. NAVARRO,
UNITED STATES DISTRICT COURT JUDGE

APPEARANCES: (See next page)

Recorded by: Araceli Bareng

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United States District Court
333 Las Vegas Boulevard South
Las Vegas, Nevada 89101

Proceedings recorded by electronic sound recording.
Transcript produced by mechanical stenography and computer.

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16 ALSO PRESENT: Matt Holden, USPO; Jordan Pickron, USPO

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1 LAS VEGAS, NEVADA; JUNE 10, 2024; 10:05 A.M.

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3 P R O C E E D I N G S

4 **COURTROOM ADMINISTRATOR:** This is the time set for
5 the imposition of sentence in Case No. 2:23-cr-00111-GMN-DJA,
6 United States of America vs. Anthony Lewis Hamelin.

7 Counsel, your appearances, please.

8 **MR. OPERSKALSKI:** Good morning, Your Honor. Jake
9 Operskalski for the United States.

10 **THE COURT:** Good morning, Mr. Operskalski.

11 **MS. DIAMOND:** Good morning, Your Honor. Joanne
12 Diamond with the Federal Public Defender's Office with
13 Mr. Hamelin, who is present and in custody.

14 **THE COURT:** Good morning, Ms. Diamond.

15 And good morning, Mr. Hamelin.

16 And we also have from the probation office?

17 **OFFICER HOLDEN:** Good morning, Your Honor, Matt
18 Holden from Probation, and joining me is the new officer, Jordan
19 Pickron.

20 **THE COURT:** Ah, good morning. Thank you for joining
21 us today.

22 So, we had a new development here over the week. We
23 received, I think, four -- up to four different envelopes with
24 letters handwritten by Mr. Hamelin addressed to the Court
25 delivered here to the court from the Pahrump jail. And so, I'm

1 going to find that the attorney-client privilege has been waived
2 by him providing these letters directly to the Court.

3 And so, I did ask my staff to make copies of these
4 letters. They will be filed on the docket. But, I wanted you to
5 have them because it will take awhile before they get docketed
6 because it's a Monday. So, they will have other things that
7 they're having to file, as well.

8 I wanted you all to have a copy of these letters so
9 you can read them. They're handwritten, so they're not the
10 easiest to read, but the handwriting's not bad. I'm just saying
11 it's not as easy as reading type.

12 It's clear to me that Mr. Hamelin has a concern about
13 the voluntariness of his plea. He is advocating for the Court to
14 allow him to withdraw his guilty plea. He does not feel that he
15 entered into the guilty plea voluntarily at the time that we had
16 the change of plea hearing.

17 He has had some concerns with his mental capacity,
18 and there was, apparently, at some point, some kind of an
19 evaluation that was scheduled but didn't happen and was waived
20 because instead, there was an offer to plead guilty. And so,
21 that's how he ended up pleading guilty.

22 And I'm -- I'm oversimplifying the situation, and you
23 all can put more records -- more information on the record if
24 you'd like. But, the point is that under Federal Rule of
25 Criminal Procedure 11(d)(2)(B), a defendant may withdraw a plea

1 of guilty after the Court accepts the plea but before it imposes
2 sentence if the defendant can show a fair and just reason for
3 requesting the withdrawal. The decision to allow a defendant to
4 withdraw his plea lies with the discretion of the district court,
5 and I am citing from *United States v. Ruiz*, R-U-I-Z, a Ninth
6 Circuit case from 2001, decided en banc.

7 Although the defendant bears the burden of
8 establishing a fair and just reason, the fair and just standard
9 is applied liberally, and I'm quoting from *Yamashiro*, 2015 Ninth
10 Circuit case, as well as *Bonilla*, a 2011 case.

11 A defendant may not withdraw his guilty plea simply
12 on a lark, and that's from *United States v. Hyde*, H-Y-D-E, a
13 1997 U.S. Supreme Court case. The district court must review
14 each case in the context in which the motion to withdraw guilty
15 plea arose to determine whether a fair and just reason exists.
16 And that's from *McTiernan*, M-C, capital T-I-E-R-N-A-N, a Ninth
17 Circuit 2008 case.

18 So, fair and just reasons for withdrawal
19 include -- there's five different things: Number one, inadequate
20 Rule 11 plea colloquy. That's not been raised;

21 Number two, erroneous or inadequate legal advice.
22 That's not been raised;

23 Number three, newly discovered evidence. That hasn't
24 been raised;

25 Number four, intervening circumstances. Maybe has

1 been raised because he did talk about some things at the Pahrump
2 jail that he's concerned with;

3 But, number five is, any other reason for withdrawing
4 the plea that did not exist when the defendant entered his plea.

5 So, the situation here is one that he's claiming did
6 exist at the time that he entered his plea, but it is a mental
7 illness issue that he's raising, so I think, again, the -- the
8 liberal standard does apply.

9 The burden of establishing a fair and just reason, as
10 I said, you know, is -- lies with the defendant. So it is
11 Mr. Hamelin's burden to show that the plea of guilty was not
12 voluntary. He says in the letter he would have pled guilty to
13 the Lindbergh (phonetic) child kidnapping if that were the case
14 and that he was just wanting to get out early because his cousin
15 has cancer, also because he was hoping to get some medical
16 treatment. He claims he's not getting medical treatment at the
17 Pahrump jail.

18 He does -- and I think it was the fourth
19 letter -- say that he is guilty of a different statute but not
20 the one that he plead guilty to.

21 Okay. So, that's my summary, and then I'll open it
22 up. Because it is the defendant's motion, I'll give Ms. Diamond
23 the first opportunity to address, what should the
24 Court -- what -- in your position, you know, what's your
25 argument? What do you think that the Court should do with the

1 letters?

2 **MS. DIAMOND:** Thank you, Your Honor. I've spoke to
3 Mr. Hamelin about the letters. I think the problem was a timing
4 situation. So all of these letters were written by Mr. Hamelin
5 while I was out of the country on vacation, so I was not able to
6 accept his calls.

7 And Mr. Hamelin is spiralling. This is a symptom of
8 his bipolar disorder. He's been spiralling. And I'm normally
9 able to calm him down through conversation, explain what's going
10 on, and I wasn't available to him.

11 He has made clear that he doesn't want to withdraw
12 his plea; that it was, again, because of that mental health
13 spiral, him just trying to get out of Pahrump. And he thought
14 that this would be a quicker way of doing it.

15 I explained to him that there's nothing quick about
16 this process. If he withdraws his plea, probably would need new
17 counsel, potentially. It resets everything. And if his goal is
18 to get to BOP, get better mental health treatment, this is the
19 way to do it. But I made very clear to ask him, Are you sure you
20 feel comfortable that you were competent when you entered your
21 plea? because I don't want to dissuade you from that. If that is
22 what you're saying, that you weren't, then absolutely we need to
23 do this.

24 And he said no. He just wanted to get out of
25 Pahrump. It's a symptom of his illness.

1 And he has expressed to me when we met and also this
2 morning that he wishes to go forward with sentencing; that the
3 letters that he wrote to the Court were a product of his
4 spiralling mentally while I was unavailable to him.

5 **THE COURT:** So what medication -- I was looking back
6 to see on my notes. I usually write down any medication that
7 someone is taking.

8 I had written down at the time of his change of plea,
9 when I asked him what medication he was taking, he was taking
10 three prescriptions, a psychotic medication since August of 2023.
11 The other one, I think, was Abilify, but also insulin.

12 So was he being treated or not being treated, I
13 suppose, is the first question?

14 **MS. DIAMOND:** Being treated. So the current
15 medications are at paragraph 82 of the PSR, Aripiprazole,
16 A-P -- A-R-I-P-I-P-R-A-Z-O-L-E, 20 milligrams; topiramate,
17 T-O-P-I-R-A-M-A-T-E --

18 **THE COURT:** I'm sorry. What paragraph are you on?

19 **MS. DIAMOND:** Paragraph 82, page --

20 **THE COURT:** Oh, 82. I thought you said 32 --

21 **MS. DIAMOND:** Sorry, Your Honor.

22 **THE COURT:** Okay. Thank you.

23 **MS. DIAMOND:** Topiramate, 50 milligrams. That one's
24 twice a day. And lamotrigine, brand name, Lamictal, a hundred
25 milligrams once a day.

1 I asked Mr. Hamelin, Are you taking your medications?

2 And he said yes. But as he said to me, medications
3 are not a magic pill, and they don't stop all of his symptoms.

4 So, he tells me he is in compliance with his
5 medications, but that has not stopped this spiralling. He
6 just -- and I -- I frankly agree with him. I don't think Pahrump
7 is set up for folk with his level of mental illness. It's a
8 temporary facility. They're not a medical facility. They do the
9 best they can.

10 But, he -- he's sick. He's been sick for decades,
11 and, you know, he's just not in an ideal situation for his
12 illness. And despite the medications, he's been spiralling
13 recently.

14 **THE COURT:** All right. So starting with paragraph 74
15 of the presentence report, it does state the defendant has a
16 significant mental health history dating back to 1992, and it's
17 several paragraphs long and ends with paragraph No. 85.

18 What is the government's position?

19 **MR. OPERSKALSKI:** Thank you, Your Honor. I would
20 just make a, first, just for the record, a very minor clarifying
21 point. When the defendant raised in motion practice his
22 competency, it was raised that he was insane at the time of the
23 offense so that he would be not guilty by reason of insanity, not
24 that he was not competent to enter a plea or to proceed to trial.
25 So this would be, I believe, a different and new issue.

1 I am very troubled by these letters, though,
2 considering the nature of them. And I would just ask, even
3 though it is the defendant's burden to establish that he is not
4 competent and in order to withdraw his plea, that the Court still
5 actually engage in colloquy with him to make sure that at this
6 point today, he feels that he was competent to enter into that
7 plea and that he feels comfortable going forward with sentencing.

8 Thank you.

9 **THE COURT:** So my understanding of the letter is that
10 he's saying that he was insane at the time of the offense and
11 that he would like to go to trial and plead; that he was, you
12 know, guilty but insane and hopefully then receive some kind of
13 inpatient treatment at a facility. And, in fact, he claims that
14 he would even waive his presence at trial in order to speed that
15 up.

16 So, that is the Court's concern is if he's making
17 decisions not based on whether or not he thinks -- or admits that
18 he's guilty of the offense to which he plead guilty, but rather,
19 he's making his decisions based on his perception of speed and
20 ability to get into a medical facility for inpatient treatment,
21 which it appears he has been hospitalized before and -- and, you
22 know, done, you know, significantly better after he's been
23 hospitalized in a psychiatric hospital. So, it makes sense that
24 that's his -- that's what he's looking forward to.

25 So that does concern the Court. I -- I'm not sure

1 whether he's really voluntarily pleading guilty or if he is just
2 taking this deal because he doesn't understand the process and
3 just is trying to speed it up. Not because Ms. Diamond hasn't
4 tried to explain it to him, but -- I mean, let me go back here
5 and look at the recommendation.

6 Has he had a chance to look at the PSR now?

7 **MS. DIAMOND:** Yes, Your Honor. We've looked at the
8 PSR, and he gave me some suggestions for probation, so he was
9 active in that PSR review process.

10 **THE COURT:** Okay. Because probation is not what's
11 being recommended, right? There's --

12 **MS. DIAMOND:** Oh, I meant for the probation officer.

13 **THE COURT:** Okay.

14 **MS. DIAMOND:** Yeah. Absolutely.

15 **THE COURT:** Okay. Because statutory provisions for
16 Count 1 is up to ten years in prison; for Count 2, up to five
17 years in prison. The guideline range is 46 to 57 months. And
18 the recommended sentence is 46 months per count but to be run
19 concurrently, so that's almost four years.

20 And he believes that he would be in a mental
21 facility, in a mental hospital, and not in the prison during that
22 time?

23 **MS. DIAMOND:** No, Your Honor. So, he understands
24 that he would be in BOP. He's going to request the Court
25 recommend him to a BOP medical facility.

1 Mr. Hamelin's understand -- it -- when he talks about
2 a mental health facility, he's talking if he had gone to trial,
3 been convicted -- been found not guilty by reason of insanity,
4 that he would be in some kind of facility. So it's kind of
5 confusing the two.

6 He understands that under the plea agreement, if he
7 is sentenced by the Court, we can ask him to go to a BOP medical
8 facility. But when we were in the position where we intended to
9 plead not guilty by reason of insanity, A, he knew that BOP would
10 take him to a medical facility for an evaluation. That's what we
11 were waiting for. It took them a really long time. They didn't
12 come. And in the process of that time is when Mr. Hamelin wanted
13 to reopen negotiations with the government, and that's why we
14 asked the Court to stay its order directing him to be sent for an
15 evaluation, because we didn't want him to go right when we'd
16 reached an agreement, and then he would have to try and him back.

17 So, there was a long delay on BOP's part, and then we
18 contributed to that delay by asking the Court to stay the order
19 so that we could have that.

20 So, he understands that if that process had gone
21 through and he'd been found not guilty by reason of insanity,
22 that would have led to some kind of medical facility.

23 **THE COURT:** Does he agree that if he withdraws the
24 request made in these four letters and we go forward with
25 sentencing and if he receives the 46-month sentence that the

1 parties jointly recommended or agreed to recommend in the plea
2 agreement, that he will not be going to a medical facility?

3 He'll be going to a prison for 46 months, you know,
4 minus good time credit, but essentially, he's not going to be
5 sent to a medical -- I mean, it could be a prison that has some
6 medical --

7 **MS. DIAMOND:** That's where he wants to go, Your
8 Honor. So he's been in BOP before, so he knows what services BOP
9 has. He just wants to go to a BOP medical prison because he
10 knows they have the ability to treat him.

11 He's been in BOP twice before for similar offenses.
12 He knows his way around BOP. He's not afraid of being in BOP.
13 But he wants to be in a BOP facility that is able to manage his
14 symptoms in a way that Pahrump cannot. And Mr. Hamelin's very
15 versed with this and, you know, comfortable.

16 You know, if the Court wants to hear from Mr. Hamelin
17 on this issue, I know he -- he, more than anyone, knows what his
18 treatment needs are and what his wishes and understanding are.
19 He's very able to convey that to the Court.

20 **THE COURT:** All right. Mr. Hamelin, you do have an
21 attorney here, so you're not required to make any statements
22 without your attorney. Your attorney can speak for you.

23 **THE DEFENDANT:** Yeah.

24 **THE COURT:** But because you filed these letters, I
25 have concerns --

1 **THE DEFENDANT:** True.

2 **THE COURT:** -- that you've raised. So I need to ask
3 you some questions.

4 **THE DEFENDANT:** Okay.

5 **THE COURT:** So are you willing to answer my questions
6 so I can determine whether or not your plea --

7 **THE DEFENDANT:** Yes, Judge.

8 **THE COURT:** -- was voluntary?

9 **THE DEFENDANT:** Yes, Judge.

10 **THE COURT:** All right. So you heard the statements
11 of Ms. Diamond and her explanation.

12 **THE DEFENDANT:** Yes.

13 **THE COURT:** Do you agree with what she said, or are
14 there --

15 **THE DEFENDANT:** Yes, yes. She explained it very
16 well. And by pleading guilty today, I would be sent to a BOP
17 facility, and hopefully, the judge would -- you, Your Honor,
18 would recommend that I go to a BOP medical facility, whether it
19 be Rochester, Minnesota, or Springfield, Missouri, or something.
20 And usually, the BOP would -- would recognize the judge's
21 recommendation where I go. Based on the PSR as well as your
22 recommendation, they would send me to a medical facility where I
23 could get treatment. And that's what we're hinging it on, your
24 recommendation and on the PSR.

25 Does that make sense?

1 **THE COURT:** Yes, it does.

2 So why did you send these letters?

3 **THE DEFENDANT:** Because I was going through a
4 downward spiral. I couldn't reach my attorney. I am getting
5 sick again. I've been in Pahrump, you know, for over a year.
6 The pills aren't a magic pill. I've been depressed. I've been
7 sleeping in my cell. I've been hibernating in my cell, sleeping
8 a lot, and I just need to get out of Pahrump because I need to
9 get to a medical facility, you know, as fast as possible, you
10 know. And -- and I thought by pleading -- by sending these, I
11 could -- I could get to a medical facility as fast as possible.

12 My attorney explained this process is not the fastest
13 way. The fastest way is to plead guilty, have you recommend
14 me -- recommend me to a medical facility, and -- and do it that
15 way, if that makes sense.

16 **THE COURT:** So do you want to go forward and withdraw
17 your plea of guilty, or --

18 **THE DEFENDANT:** No. To plead guilty and have Your
19 Honor recommend I go to a medical facility within the BOP.

20 **THE COURT:** Do you want to go forward with your
21 sentencing today on the two charges?

22 **THE DEFENDANT:** Yes.

23 **THE COURT:** So what has changed since -- since you
24 sent me those letters and then your change of --

25 **THE DEFENDANT:** Nothing -- nothing's changed. It's

1 just that this would be the fastest way for me out of Pahrump. I
2 was going through a downward spiral, and this is the fastest way
3 that I can get treatment.

4 I'm just -- I know -- I know that -- that, you know,
5 that this is -- I know what's going on, Your Honor, and
6 Ms. Diamond explained everything to me, and I know what's been
7 said here today.

8 But, I also know how the system works, and I know
9 that -- that this is the fastest way for me to get treatment.
10 I'll languish in Pahrump. I won't get the treatment I need. And
11 I'll be bounced back and forth like a rubber ball.

12 This is the fastest way I can get treatment, and if
13 it means I need to go -- go to technically be considered a
14 prisoner and go to the prison and go -- be -- technically be
15 labeled an inmate but be -- but yet go to a federal medical
16 center, then that will be the best and most efficient way to do
17 it. You know what I'm saying? If that makes any sense, if the
18 Court recommends that I go to a medical facility as a prisoner
19 versus as a civil commitment if -- if I were to be found not
20 guilty by reason of insanity.

21 Now, as a side note, as a caveat, I would ask that
22 the government, when I come -- come up for release, you know,
23 whether it be next year sometime, you know, possibly civilly
24 commit me under 4246. But that's a sidebar. The government can
25 do that when they want to if I should come up for release at that

1 time, you know. But, for now, this is the fastest way I can get
2 treatment that I need.

3 **THE COURT:** All right. So I can't accept a plea of
4 guilty just because you want to get treatment. I appreciate you
5 want to get treatment, but -- I think we all want you to get
6 treatment, but I can't allow you to plead guilty only because
7 you're trying to speed up the process of getting treatment.

8 So I need to ask you about the elements of the two
9 offenses to which you plead guilty to make sure that you still
10 admit that you are guilty of these. It sounds like you only
11 think you're guilty of one and not the other, so let me do them
12 one by one.

13 First one is Count 1, which is influencing, impeding,
14 or retaliating against a federal official by threatening a family
15 member. And that's the violation that's under 18 U.S.C. Section
16 115(a)(1)(A). There's two elements to the offense, and these are
17 on page 4 of the plea -- the plea agreement, if you want to look
18 there.

19 So, the first element is the defendant threatened to
20 murder a member of the immediate family of a United States
21 official; and number two, the defendant did so with the intent to
22 impede, intimidate, interfere with the United States official
23 while he was engaged in the performance of official duties or
24 with the intent to retaliate against United States official on
25 account of the performance of his official duties.

1 So, do you admit or deny that you committed Count 1,
2 influencing, impeding, retaliating against a federal officer by
3 threatening a family member?

4 **THE DEFENDANT:** I admit that.

5 **THE COURT:** All right. So the second one is the
6 offense of transmitting a communication containing a threat to
7 injure under Title 18 of United States Code Section 875
8 subsection (c). The first element is that you knowingly
9 transmitted in interstate commerce a message containing a threat
10 to injure a person, and the second element is that the message
11 was transmitted for the purpose of issuing a threat or with
12 knowledge that the message would be viewed as a threat.

13 So do you admit or deny that you committed Count 2,
14 transmitting a communication containing a threat to injure under
15 Section 875(c)?

16 **THE DEFENDANT:** I admit that.

17 **THE COURT:** Okay. And so, you understand that the
18 sentence can still be up to ten years for Count 1 and up to five
19 years for Count 2? The parties are stipulating and agreeing to a
20 46-month sentence, and that's what the probation office is
21 recommending, as well, but you understand that I could impose a
22 higher sentence?

23 **THE DEFENDANT:** I understand, Your Honor.

24 **THE COURT:** All right. We did talk about restitution
25 at the time of the plea, but it sounds like there is not any

1 restitution; is that right?

2 **MR. OPERSKALSKI:** That's correct, Your Honor. I have
3 been in communication of the victims of this offense, and they
4 would not like to seek restitution. So I would ask that the
5 Court, although it is mandatory under the statute, just to impose
6 a -- an amount of zero dollars because they're not seeking it at
7 all. Thank you.

8 **THE COURT:** And you do understand, then, Mr. Hamelin,
9 that there will be no trial. I will simply enter a judgment of
10 guilty and sentence you today, and there will never be a trial
11 for you to plead that you committed those acts while insane.
12 There will be instead a conviction on your record.

13 Do you understand that?

14 **THE DEFENDANT:** Yes, ma'am.

15 **THE COURT:** And do you understand that you will also
16 have a term of supervision to follow the term of imprisonment?

17 And in this case, the term of supervision -- I
18 thought it was up to three years, but I'm trying to double-check
19 and make sure.

20 Yes. The term of supervised release would be up to
21 three years per count, probably ran concurrent, and
22 (indiscernible) recommendation of -- of the parties and of the
23 probation office. And while you are serving that supervised
24 release term, you would have to comply with conditions. And if
25 you don't, you could go back to prison.

1 Do you understand that?

2 **THE DEFENDANT:** Yes, Judge.

3 **THE COURT:** And most importantly, do you understand
4 that if we go through with this, you will not be able to withdraw
5 your guilty plea?

6 You'll be waiving your right to appeal the guilty
7 plea and also your sentencing. There's very limited rights that
8 you would retain to appeal.

9 **THE DEFENDANT:** Yes.

10 **THE COURT:** Have you talked to your attorney about
11 that?

12 **THE DEFENDANT:** Yes.

13 **THE COURT:** Do you feel you understand it?

14 It's written out in your plea agreement, but I want
15 to make sure you understand that this letter that you sent me
16 today -- or not today, but last week, you know, during the week,
17 these four letters. Once there's a sentencing, it changes the
18 picture, and your burden is bigger --

19 **THE DEFENDANT:** I understand --

20 **THE COURT:** -- if I go through with sentencing.

21 **THE DEFENDANT:** I understand. Yes.

22 **THE COURT:** But if you want me to conduct some other
23 kind of hearing to determine whether or not to withdraw your
24 guilty plea, it will be easier for you to meet your burden if we
25 do it before sentencing.

1 **THE DEFENDANT:** No. I understand.

2 **THE COURT:** So do you want me to go ahead and
3 sentence you today, or do you want to take a week or so to kind
4 of think about this --

5 **THE DEFENDANT:** No.

6 **THE COURT:** -- I know you're in a hurry to get
7 medical treatment, but this is really important.

8 **THE DEFENDANT:** No. I understand what's going on.
9 We can complete the process today.

10 **THE COURT:** Okay.

11 **THE DEFENDANT:** Thank you.

12 **THE COURT:** And how does the government feel about
13 that canvass? Any other questions you want me to ask?

14 I'm more than happy to ask more questions.

15 **MR. OPERSKALSKI:** Thank you, Your Honor. Just one
16 brief point of clarification, and I probably misheard Your Honor.
17 But, the parties are recommending that the sentences be imposed
18 concurrently. But, the maximum that he could be sentenced to is
19 up to 15 years imprisonment and a six-year period of supervised
20 release because the Court has the authority to sentence
21 those -- or to run those sentences concurrently. So just to
22 clarify that.

23 But the other piece is very likely unnecessary, Your
24 Honor, but just out of an abundance of caution, I would ask the
25 Court to ask the defendant whether he is pleading guilty because

1 the facts -- factual basis in his plea agreement are true and not
2 based on these other reasons of seeking additional treatment.

3 Thank you.

4 **THE COURT:** Thank you.

5 So you did not mishear. I -- I did not ask him -- or
6 I did not remind him of the total amount of time that he could
7 remain in custody.

8 So, Count 1 is punishable up to ten years. Count 2
9 is up to five years. You might have to serve the sentence for
10 Count 1 first before you serve the sentence for Count 2, which
11 means the total amount of that you could serve under worst case
12 scenario is up to 15 years in prison.

13 Do you understand that?

14 **THE DEFENDANT:** Yes, Your Honor.

15 **THE COURT:** And do you understand that a supervised
16 release term for each count is three years, but you might have to
17 serve all the supervised release term for one count first before
18 you even begin serving it for the second count, so technically,
19 worst case scenario, you could have to serve up to six years of
20 supervised release.

21 Do you understand that?

22 **THE DEFENDANT:** Yes, Your Honor.

23 **THE COURT:** And then, in your guilty plea agreement,
24 there are facts -- let me go back to those -- on page 7. Starts
25 at the bottom of page 7. They're pretty short, so I'm just going

1 to read them, and you can tell me if that's still true or not.

2 It says, In the late evening of June 1 of 2023 and
3 the early morning of June 2nd of 2023, you made threatening phone
4 calls and left a threatening voicemail and a text message on the
5 phone of capital J, period, capital M, period, who is the wife of
6 Kevin McCarthy, who was, at the time, a member of the United
7 States House of Representatives.

8 Defendant's threats were directed not at him but at
9 the son, whose initials are C, period, M, period.

10 And you made the following statement in a voicemail:
11 I know where you work. I know who your coworkers are. I'm in
12 Las Vegas and I'm coming your way. So I told your father I'm
13 coming, and I told your father about the law of unintended
14 consequences. And when I posted on his Facebook page about
15 his -- the budget of him coming back for more, he's a very
16 arrogant and foolish man. And needless to say, unfortunately,
17 you're the undeserving consequence of his deserving punishment.
18 It's nothing personal. But when you see me, you'll know. You'll
19 know and you'll know that even though it's my hand, your father
20 killed you.

21 Defendant sent this text message to J.M., the wife
22 of -- of K.M., who is the mother of C.M., and additionally,
23 stating anger and frustration with K.M. for carrying out his
24 official duties.

25 And additionally, defendant said the following in a

1 text message: I want to look at K in the eye and tell him the
2 hard truth. He killed -- he did. Karma and the law of
3 unintended consequences came home to roost. I want to see the
4 pain when he hears that truth in open court.

5 And defendant sent these messages from Las Vegas,
6 Nevada, to California. Therefore, they were transmitted in
7 interstate commerce through the referenced messages.

8 Defendant admits that he intended to communicate a
9 threat; that the purpose of defendant's threats were to impede,
10 intimidate, and interfere with K.M. while he was engaged in the
11 performance of his official duties and with the intent to
12 retaliate against K.M. on account of the performance of his
13 official duties.

14 So, are all those facts correct, or should I consider
15 changing any of those?

16 **THE DEFENDANT:** No, Your Honor. They're correct.

17 **THE COURT:** All right. Anything else,
18 Mr. Operskalski, you want me to ask him about?

19 **MR. OPERSKALSKI:** No, Your Honor. Thank you.

20 **THE COURT:** So, I think that Mr. Hamelin's answers do
21 satisfy the concerns of the Court that were raised by his letter.
22 And so, it sounds like there's not a just and fair reason at this
23 point to allow him to withdraw his guilty plea, and, in fact, it
24 looks like he doesn't want to withdraw his guilty plea.

25 **MS. DIAMOND:** He doesn't, Your Honor. I would

1 just -- I would like some clarification, too, just because
2 of -- I didn't like the way Mr. Hamelin phrased some things.

3 **THE COURT:** Okay.

4 **MS. DIAMOND:** I just want to make sure that he
5 understands that he's not going to be technically a prisoner.
6 The BOP isn't an alternative to civil commitment. I think he was
7 saying it like I'll go there technically as a prisoner instead of
8 being civil -- but he will be. He will be convicted of a felony.

9 **THE DEFENDANT:** Mm.

10 **MS. DIAMOND:** Will be in prison. This is prison.

11 **THE DEFENDANT:** Yeah.

12 **MS. DIAMOND:** It's just the best prison able to deal
13 with his mental health.

14 And that was my slight concern for what he said his
15 reasoning was. I don't want it to seem like or him to think that
16 he's not going to a real prison and being a real prisoner. It's
17 not an alternative to civil commitment. It's prison.

18 **THE COURT:** Right.

19 **THE DEFENDANT:** Right.

20 **THE COURT:** Okay. Well, that's a good point.

21 Mr. Hamelin, I can't guarantee where they're going to
22 send you. I can recommend they send you to a medical facility.
23 But you'll be a prisoner, and so, you'll be in the custody of the
24 Bureau of Prisons. And they will transport you and place you
25 wherever they deem to be best.

1 So, even if they do eventually send you to a medical
2 facility, it might take awhile. It could take more than 90 days,
3 120 days. It could take awhile before they even place you there.
4 And even once you're there, if you are ever sent there, they
5 could decide that they have given you treatment and that you're
6 good enough to go back to a regular prison. And you could end up
7 in a regular prison for a long time.

8 So we don't know what's going to happen. It's based
9 on a lot of different factors that we just don't know.

10 So you have to be sure that you understand that if I
11 adjudicate you guilty of this charge -- of these charges, you
12 will be a felon. You will be a prisoner. You will be an inmate
13 in the Bureau of Prisons potentially up to 15 years, but probably
14 less, but for a long time, and they will place you wherever they
15 deem appropriate.

16 You know, there's a grievance process. You can ask
17 for changes and things like that, but there's no guarantee that
18 they're going to place you in a medical facility for the entirety
19 of the time that you're in custody.

20 Do you understand that?

21 **THE DEFENDANT:** I do.

22 **THE COURT:** All right. Is that sufficient for you,
23 Ms. Diamond?

24 **MS. DIAMOND:** Yeah. And then, one -- sorry. One
25 additional thing, also, just to clarify. I'm not trying to be

1 difficult. I just want it to be really clear --

2 **THE DEFENDANT:** Sure.

3 **MS. DIAMOND:** -- Mr. Hamelin is that Mr. Hamelin
4 stated, I think I heard, that I had advised him that the quickest
5 way to get treatment would be to take a guilty plea and do
6 it -- that's -- I just want him to be clear that that's not what
7 I was intending --

8 **THE DEFENDANT:** Okay.

9 **MS. DIAMOND:** -- to tell him at all.

10 **THE DEFENDANT:** Okay.

11 **MS. DIAMOND:** He wanted -- expressed to me that he
12 wanted to plead guilty per the plea agreement. And then,
13 separate to that, when this issue arose with him writing the
14 letters to the Court that he had told me about before I had seen
15 them that if his goal in writing the letters was to get to BOP
16 quicker, that wouldn't happen.

17 But I want it to be real clear that my -- I did not
18 advise him to plead guilty as the quickest way to get treatment.
19 And if that's his understanding of -- of my advice, that was not
20 what I intended to convey.

21 **THE DEFENDANT:** Right.

22 **THE COURT:** Okay. Well, that's a good point,
23 Mr. Hamelin. There's no guarantee that the prison's going to do
24 anything more than what they're already doing for you in Pahrump.

25 **THE DEFENDANT:** Uh-huh. Right.

1 **THE COURT:** As far as, like, the quickest way to get
2 treatment, they might not do anything else. BOP might just look
3 at all this paperwork and go, Yeah. Those medications are
4 appropriate. That's fine. He doesn't need anything else.

5 And it's just -- goes on and on, the same as always,
6 just the same as what you've been doing for the last year. It
7 might not be any different. So I want to be careful with that.
8 There is no quicker way to receive treatment because we don't
9 know what that treatment would be if there even would be a change
10 in treatment. Might just be these medications for the next 15
11 years and that's it.

12 **THE DEFENDANT:** Okay.

13 **THE COURT:** So do you want to take some time -- I
14 don't have to sentence you today. It's -- we can do it
15 tomorrow --

16 **THE DEFENDANT:** No. We can go through with this,
17 Your Honor, because -- and like I said, like I mentioned earlier
18 on the record, you know, I'm going to ask the government. You
19 know, I know it's not your responsibility because I won't be in
20 your district, but I will ask the government to 4246 me as I get
21 closer to my release out whatever district that I'm in. You
22 know, you can see to your counterparts. You know, you can 4246
23 me as I get closer to my release.

24 **MS. DIAMOND:** Again, Your Honor, sorry.

25 I just want to make real clear, Mr. Hamelin, that you

1 understand that that may never happen, right?

2 **THE DEFENDANT:** Yeah.

3 **MS. DIAMOND:** Like you could be -- worst case
4 scenario, you're in a regular prison getting no better treatment
5 than what you're getting in Pahrump, and then you're released to
6 the streets --

7 **THE DEFENDANT:** Yeah.

8 **MS. DIAMOND:** -- and you understand that that could
9 happen?

10 **THE DEFENDANT:** It could happen. Yeah.

11 **MS. DIAMOND:** And in terms of them filing for this,
12 right --

13 **THE DEFENDANT:** Uh-huh.

14 **MS. DIAMOND:** -- I'm not with the government. I
15 don't know how often that happens. My guess is that's extremely
16 rare. So my expectation is that whenever your sentence is up,
17 you're going to get released to the streets on supervised release
18 and that just because you want them to file this doesn't mean
19 that anyone's ever going to do that. I want to make sure that
20 you understand that --

21 **THE DEFENDANT:** Yeah.

22 **MS. DIAMOND:** -- in this because obviously, I have
23 concerns, as well, because, you know, I just want to make sure
24 that -- that you really are understanding all of this.

25 And again, as the judge has offered, if you -- if you

1 want to take more time to talk to me about this more, we can
2 reset this. I just want to make sure that -- that you really are
3 clear on worst case scenario. You go to a regular prison, a
4 regular yard. You're not getting any different medication than
5 what you're getting right now, and then you're released to the
6 streets.

7 **THE DEFENDANT:** Right. Then, then we'll just go
8 through with this process.

9 **THE COURT:** All right. So, I think we've talked
10 about a lot of different things. Probably just too many. And I
11 think that Mr. Hamelin would benefit from having a little bit
12 more time with Ms. Diamond to make sure that he understands the
13 possible consequences that nobody can guarantee him what's going
14 to happen. So it's a difficult situation and not one that you
15 should enter in lightly.

16 Like I said, I can fit you in Tuesday or Wednesday.
17 We have quite a bit already. Tomorrow at 2 p.m. would be
18 available. Wednesday wouldn't be until 3:30, so I'm not sure how
19 that would work with transportation. But we could do that, as
20 well.

21 Then the next hearing that I have available is the
22 24th. So tomorrow's the 11th. Wednesday is the 12th.

23 So, tomorrow, what did we say, Nick? Tomorrow at 2
24 p.m. would be open. Wednesday, it probably wouldn't be till
25 3:30; is that --

1 **COURTROOM ADMINISTRATOR:** You have a 2:00 and 2:30 on
2 Wednesday.

3 **THE COURT:** Yeah. Is that 2:30 a revo?

4 Yeah. The 2:30 is a revo, so I can do that in half
5 an hour. So we could do three o'clock on Wednesday, the 12th.
6 Otherwise, the next date would be Monday, the 24th at 11 a.m.

7 So, Ms. Diamond, you know best your -- your schedule
8 because you just got back from vacation, so I'm sure you've got a
9 lot of things that you need to do.

10 When do you think you can see him and then feel
11 comfortable going forward?

12 We can do it the 24th, Monday.

13 **THE DEFENDANT:** I don't need any time. I'm good to
14 go.

15 **MS. DIAMOND:** Okay. So, with that in mind, then,
16 Wednesday. Let's do Wednesday so I've got time to talk to you.
17 Just, I would feel better, and I know -- I can't guarantee I'm
18 going to get a visit with you tomorrow, but I'd like to talk to
19 you.

20 **THE DEFENDANT:** Okay.

21 **MS. DIAMOND:** Let's do Wednesday, Your Honor,
22 at -- did you say 3:00 -- three o'clock?

23 Does that work for you, Jake?

24 **MR. OPERSKALSKI:** Yes, it does.

25 That works for the government, as well, Your Honor.

1 **THE COURT:** All right. So, Wednesday, June 12th, at
2 3 p.m.

3 Do we want him here earlier so she can meet with him
4 before the hearing?

5 **MS. DIAMOND:** I can -- I'll set up a video visit with
6 him, Your Honor, so I'll be able to --

7 **THE COURT:** Will you be in the building on that day
8 for something else?

9 **MS. DIAMOND:** I will be in the building. I have a
10 hearing with Judge Albregts at 2:00, so I'll just come straight
11 here afterwards. But I can -- if he's transported over -- does
12 he get transported over in the morning with everybody?

13 **THE MARSHALL:** He'll come in.

14 **MS. DIAMOND:** So he would be available over
15 at -- perfect. I can go see him in lockup, as well.

16 **THE COURT:** Okay. Does that work for you, Nick?

17 **COURTROOM ADMINISTRATOR:** Yes, Your Honor.

18 **THE COURT:** Is the probation office still available?

19 **OFFICER HOLDEN:** Somebody will definitely be
20 available.

21 **THE COURT:** Okay. All right. Thank you.

22 Then that will be the order. We'll continue the
23 sentencing hearing so that Ms. Diamond has sufficient time to
24 discuss Mr. Hamelin's letters with him. The letters will be
25 filed on the docket today, so I can't refer them right now to any

1 docket numbers. I don't know what docket number they're going to
2 receive.

3 So I'm not going to withdraw his -- his request in
4 his letters yet. Let's wait until Wednesday.

5 All right. Anything else from the government you'd
6 like me to address while we're here?

7 **MR. OPERSKALSKI:** No, Your Honor. Thank you.

8 **THE COURT:** Anything else, Ms. Diamond?

9 **MS. DIAMOND:** No, Your Honor. Thank you.

10 **THE COURT:** All right. Anything else from the
11 probation office?

12 **OFFICER HOLDEN:** No. Thank you.

13 **THE COURT:** All right. So, then, we'll be back here
14 Wednesday at 3 p.m. Be off record. Thank you, Counsel.

15 **MR. OPERSKALSKI:** Thank you, Your Honor.

16 **COURTROOM ADMINISTRATOR:** All rise.

17 *(Proceedings adjourned at 10:44 a.m.)*

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1 I, Paige M. Christian, a court-appointed transcriber,
2 certify that the foregoing is a correct transcript transcribed
3 from the official electronic sound recording of the proceedings
4 in the above-entitled matter.

5

6 Date: September 16, 2024

7

/s/ Paige M. Christian

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Paige M. Christian, RMR, CRR, CCR #955

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Official Court Reporter

United States District Court

District of Nevada

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